

Exhibit 16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
: Master File No.
Global Brokerage, Inc. : 1:17-cv-00916-RA
F/k/a FXCM, Inc. :
Securities Litigation :
----- :

**** C O N F I D E N T I A L ****

REMOTE VIDEO DEPOSITION OF: JOSEPH S. PATT
THURSDAY, APRIL 23, 2020

REPORTED BY:
SILVIA P. WAGE, CCR, CRR, RPR

<p style="text-align: right;">Page 10</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 so...</p> <p>3 Q. That's fair. We'll be as flexible as</p> <p>4 we can.</p> <p>5 A. There is no way to get to the kitchen</p> <p>6 without going through here. So we're --</p> <p>7 anyway...</p> <p>8 Q. Totally understood.</p> <p>9 And other than your Counsel, did you</p> <p>10 invite anyone else onto the conference room or to</p> <p>11 the video chat today?</p> <p>12 A. I didn't -- I didn't invite anybody.</p> <p>13 They joined so...</p> <p>14 Q. Okay. Good to know.</p> <p>15 Have you ever been deposed before?</p> <p>16 A. Yes.</p> <p>17 Q. And how many times?</p> <p>18 A. Somewhere between five and ten.</p> <p>19 Q. Okay. And in what context?</p> <p>20 A. Various context. You know, I worked</p> <p>21 at Citigroup, you know, so there were a couple</p> <p>22 then and a couple where -- in my current job.</p> <p>23 Q. Okay. At Citigroup, what types of</p> <p>24 cases were they?</p> <p>25 A. Involving derivatives and trading in</p>	<p style="text-align: right;">Page 12</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 over each other. I'll do my best to let you</p> <p>3 answer before I ask follow-up questions. But we</p> <p>4 should just be cognizant of that so that the</p> <p>5 record can reflect what we're saying.</p> <p>6 So, please, wait for me to finish the</p> <p>7 question before you answer it. And if you answer</p> <p>8 it, I'll assume you understand it. If you don't</p> <p>9 understand it, please, ask me the question to</p> <p>10 make sure you do understand it.</p> <p>11 A. I'll do my best.</p> <p>12 Q. And if you need a break at -- if you</p> <p>13 need a break at anytime, let me know. Happy to</p> <p>14 do it. Just we would want to break only after</p> <p>15 the question is answered, as opposed to having a</p> <p>16 break when a question is pending.</p> <p>17 Anything today that would prevent you</p> <p>18 from giving truthful answers to the questions I</p> <p>19 ask you?</p> <p>20 A. No.</p> <p>21 Q. Okay. And you're being represented</p> <p>22 by The Rosen Law Firm; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you have been designated</p> <p>25 as a 30(b)(6) deposition witness today.</p>
<p style="text-align: right;">Page 11</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 civil, if that's what you're asking.</p> <p>3 Q. So civil lawsuits related to</p> <p>4 derivative trading while you were at Citigroup?</p> <p>5 A. Yes.</p> <p>6 Q. And were you a defendant or a</p> <p>7 plaintiff or just a witness?</p> <p>8 A. Witness.</p> <p>9 Q. And at your current position, what</p> <p>10 types of cases were they?</p> <p>11 A. Same thing, civil witnesses.</p> <p>12 Q. Also, related to trading?</p> <p>13 A. Yes.</p> <p>14 Q. And, also, you were not a party?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. So, since you've done it</p> <p>17 before, it still helps to go over some of the</p> <p>18 ground rules.</p> <p>19 When I ask questions, just try to</p> <p>20 remember to answer the question out loud;</p> <p>21 otherwise, you know, nodding your head, et</p> <p>22 cetera, it's harder for the Court Reporter to</p> <p>23 take down. That's going to be, particularly,</p> <p>24 true given this remote format.</p> <p>25 We should also be careful not to talk</p>	<p style="text-align: right;">Page 13</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Do you understand that your</p> <p>3 testifying on behalf of 683 Capital Partners --</p> <p>4 A. Yes.</p> <p>5 Q. -- as a 30(b)(6) witness?</p> <p>6 And you understand your answers are</p> <p>7 binding on the company; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. I'm going to try to introduce as our</p> <p>10 first exhibit the 30(b)(6) deposition notice in</p> <p>11 this matter.</p> <p>12 MR. ISAJIW: Ashley, do you have that</p> <p>13 available?</p> <p>14 MS. DePALMA: Yes, just one moment.</p> <p>15 Q. And while she's doing that, just to</p> <p>16 go back to your prior deposition testimony, while</p> <p>17 at 683 Capital, you were a witness but was 683</p> <p>18 Capital a plaintiff or a defendant in any of</p> <p>19 those cases?</p> <p>20 A. No.</p> <p>21 Q. Okay.</p> <p>22 MS. DePALMA: The exhibit should now</p> <p>23 be introduced.</p> <p>24 Q. What we've introduced through the</p> <p>25 software is what we're marking as Exhibit 1 for</p>

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<p style="text-align: right;">Page 22</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Q. And what are your responsibilities at</p> <p>3 683?</p> <p>4 A. You know, a lot of things. There's</p> <p>5 only nine employees and we're max employee title.</p> <p>6 But, basically, I'm the junior second partner.</p> <p>7 My job is to, effectively, help the PM come up</p> <p>8 with ideas, argue against his ideas, frankly, to,</p> <p>9 you know, to sit as a sounding board devil's</p> <p>10 advocate to help him decide, you know, how big to</p> <p>11 make the ideas, frankly, to deal with things that</p> <p>12 he doesn't like to deal with like manage other</p> <p>13 people and, you know, and I deal with the tax</p> <p>14 stuff given my background and lots of stuff.</p> <p>15 Q. Okay. What type of an organization</p> <p>16 is 683 Capital Partners?</p> <p>17 A. It's a small to midsize hedge fund</p> <p>18 depending on how you define size.</p> <p>19 Q. So, when you say, "small to midsize,"</p> <p>20 what metrics are you using to measure that?</p> <p>21 A. Basically, number of employees, which</p> <p>22 is -- and partners, which is, you know, three and</p> <p>23 -- three partners, nine employees and, you know,</p> <p>24 assets under management, which is 900 million at</p> <p>25 the moment, ish.</p>	<p style="text-align: right;">Page 24</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 But the other thing that we do is</p> <p>3 that we, generally, try and be nimble and quick</p> <p>4 in places where there's -- how do I say this --</p> <p>5 dislocation or distress, where people are, you</p> <p>6 know, acting emotionally for whatever reasons and</p> <p>7 we can try and take the other side of that. We</p> <p>8 try and look for situations like that.</p> <p>9 Q. Okay. And how many clients do you</p> <p>10 manage money for at 683 Capital?</p> <p>11 A. Roughly, 50 different plus -- it's</p> <p>12 over that. I, you know, I'm not on top of that.</p> <p>13 That's not my responsibility. I know it's over</p> <p>14 50.</p> <p>15 Q. Okay. And you said that you have a</p> <p>16 huge chunk of personal money invested in 683?</p> <p>17 A. Sure, yes.</p> <p>18 Q. Okay. So is that invested in any --</p> <p>19 just generally in the company or in particular</p> <p>20 investment funds in the company?</p> <p>21 A. We have only one investment fund --</p> <p>22 (Stenographer clarification.)</p> <p>23 (There is a discussion off the</p> <p>24 record.)</p> <p>25 Q. So, I think, the next question I</p>
<p style="text-align: right;">Page 23</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Q. Okay. And in terms of 683 Capital's</p> <p>3 investment strategies, is there a general sector</p> <p>4 or investment goal that 683 adheres to or</p> <p>5 follows?</p> <p>6 A. So there is no specific sector. The</p> <p>7 general goal is quite simply is to try and make</p> <p>8 -- make and compound capital as -- at a high rate</p> <p>9 as possible over a longest term as possible. So</p> <p>10 we'll do things for, you know, a two-minute</p> <p>11 horizon and a 20-year horizon.</p> <p>12 We -- you know, the whole portfolio</p> <p>13 is considered a whole portfolio. We balance</p> <p>14 things. We, you know, we don't sit there and say</p> <p>15 we're the, like, the one specific sector or one,</p> <p>16 you know, asset class for -- you know, the idea</p> <p>17 is that, you know, not that everybody should put</p> <p>18 any huge chunk of their money with them, but if</p> <p>19 they did -- we do, we put our -- a huge chunk of</p> <p>20 our own personal money in.</p> <p>21 And so it's all balanced. We go all</p> <p>22 over the place. We've invested in -- we have</p> <p>23 biotech. We invest in financials. We invest in,</p> <p>24 you know, Argentinian bonds. We go all over the</p> <p>25 place.</p>	<p style="text-align: right;">Page 25</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 asked is -- just to repeat it, probably not</p> <p>3 verbatim, but, Mr. Patt, you mentioned that you</p> <p>4 have personal money involved in 683 Capital.</p> <p>5 A. Uh-huh.</p> <p>6 Q. And I was asking if it was involved</p> <p>7 in just the company, generally speaking,</p> <p>8 different funds and you were explaining.</p> <p>9 A. Yeah, so we have one main fund.</p> <p>10 There are two ways you get into the fund. One is</p> <p>11 for US taxable and one is offshore. And,</p> <p>12 obviously, in US taxable and it's probably about</p> <p>13 half of our -- my family's net worth.</p> <p>14 Q. Okay. And was that money also</p> <p>15 invested in everything that 683 Capital was</p> <p>16 invested in, or is it just in portions of 683</p> <p>17 Capital?</p> <p>18 A. No, everything's one fund. Everybody</p> <p>19 guess the same investments. There -- you know,</p> <p>20 there's different treatment gives you different</p> <p>21 type of tax thing, but you're otherwise in the</p> <p>22 same stuff.</p> <p>23 Q. Okay. So, to the extent 683 Capital</p> <p>24 had investments in FXCM, you would also have</p> <p>25 personal money in connection with those</p>

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<p style="text-align: right;">Page 30</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Q. And what specific evidence did 683</p> <p>3 Capital have to support those allegations, as you</p> <p>4 understand them?</p> <p>5 A. The regulatory filings that came out</p> <p>6 at the beginning of 2000 -- you know, the</p> <p>7 beginning of 2017 where they admitted to doing it</p> <p>8 and got banned from doing business in US.</p> <p>9 Q. Okay. Other than those regulatory</p> <p>10 filings, are you aware of any facts to support</p> <p>11 those allegations?</p> <p>12 A. No. But those are pretty damning</p> <p>13 filings and a result. They got banned.</p> <p>14 Q. Okay. Aside from deposition</p> <p>15 preparation, when did you first speak to anyone</p> <p>16 at The Rosen Law Firm about potentially bringing</p> <p>17 this case?</p> <p>18 A. After -- well, at some point after</p> <p>19 they announced that they were bringing a case,</p> <p>20 the press release.</p> <p>21 Q. And who approached who?</p> <p>22 A. We approached them.</p> <p>23 Q. How did you find out about the case?</p> <p>24 A. We saw the press release. I mean, we</p> <p>25 were following the company closely.</p>	<p style="text-align: right;">Page 32</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 A. Not really, no.</p> <p>3 Q. And can you describe for me what sort</p> <p>4 of business FXCM is?</p> <p>5 A. What they're in, what their business</p> <p>6 is?</p> <p>7 Q. Yes.</p> <p>8 A. They're business is to offer retail</p> <p>9 and institutional clients the opportunity to</p> <p>10 trade FX. So I, you know, I -- yen versus</p> <p>11 dollar, Euro versus Swiss franc and they often</p> <p>12 provide leverage to clients to do that.</p> <p>13 Q. So, at some point before 2015, you</p> <p>14 became aware of FXCM and its business.</p> <p>15 When did you become interested in</p> <p>16 investing in FXCM?</p> <p>17 A. After the announcement that they</p> <p>18 lost, you know, a whole bunch of money as related</p> <p>19 to the Swiss franc de-pegging.</p> <p>20 Q. So, after that announcement, is when</p> <p>21 you became interested in investing in FXCM?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And what did you do to further</p> <p>24 understand that situation, the company's business</p> <p>25 in connection with your investment decision?</p>
<p style="text-align: right;">Page 31</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Q. So you saw a press release by The</p> <p>3 Rosen Law Firm about the case and you reached out</p> <p>4 to The Rosen Law Firm?</p> <p>5 A. Yes.</p> <p>6 Q. Are you the primary contact for Rosen</p> <p>7 at 683 Capital?</p> <p>8 A. Yes.</p> <p>9 Q. Had you ever spoken to anyone at Wolf</p> <p>10 Haldenstein law firm?</p> <p>11 A. No.</p> <p>12 Q. When did you first hear about FXCM?</p> <p>13 A. Sometime before -- that's a vague</p> <p>14 question, but heard about them first time</p> <p>15 sometime -- well, sometime before 2015. I can't</p> <p>16 remember.</p> <p>17 Q. And how did you first become aware of</p> <p>18 the company?</p> <p>19 A. I don't remember how I first became</p> <p>20 aware of the company.</p> <p>21 Q. Alright. Was it in connection with</p> <p>22 an investment decision?</p> <p>23 A. No.</p> <p>24 Q. Do you remember, generally speaking,</p> <p>25 what it was in connection with?</p>	<p style="text-align: right;">Page 33</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 A. We read the public announcements and</p> <p>3 the SEC filings, both about their balance sheet</p> <p>4 and their -- the investments, the rescue</p> <p>5 financing investment that came from Leucadia. We</p> <p>6 read, you know, the indenture on the convertible</p> <p>7 bonds that we bought and we looked for the</p> <p>8 intercreditor agreement between the convertible</p> <p>9 bonds and the upstream and we read those</p> <p>10 documents, did our analysis as to what the</p> <p>11 balance sheet would be like post what their</p> <p>12 public filing said and decided it was a good</p> <p>13 investment.</p> <p>14 Q. So, in terms of the types of</p> <p>15 information that you analyzed in connection with</p> <p>16 your investment, you're looking at their public</p> <p>17 filings about the "SNB Flash Crash"; is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. The Leucadia, the other -- what other</p> <p>21 sources of information about the company did you</p> <p>22 look at and analyze?</p> <p>23 A. I mean, 10-K or 10 -- and 8, you</p> <p>24 know, 10-Qs, the latest documents. And the --and</p> <p>25 the --</p>

<p style="text-align: right;">Page 70</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 depends, you know, in times of bond stress or</p> <p>3 situations, specific situations where bonds are</p> <p>4 trading cheaply, we'll do it.</p> <p>5 We rarely buy things that don't have</p> <p>6 in our minds, at least, hopefully, a very high</p> <p>7 implied return. And, frankly, you know, so that</p> <p>8 drives all things.</p> <p>9 Q. Okay. So that 683 will invest in</p> <p>10 equity securities, debt securities, Rule 144A</p> <p>11 bonds; any other types of securities?</p> <p>12 A. I mean, options, derivatives.</p> <p>13 Q. And does 683 Capital's investment</p> <p>14 strategy -- what types of trading is involved;</p> <p>15 for instance, would you look at shorting equity</p> <p>16 securities in connection with an overall</p> <p>17 investment?</p> <p>18 A. Yes.</p> <p>19 Q. Investing in options and derivatives,</p> <p>20 I think, you mentioned as well; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Do you, generally speaking, pursue</p> <p>23 hedging transactions in connection with your</p> <p>24 investments?</p> <p>25 A. Sometimes.</p>	<p style="text-align: right;">Page 72</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 expressed in the marketing materials that you</p> <p>3 would send to clients?</p> <p>4 A. Yeah, or in the LP agreement.</p> <p>5 Q. And who at 683 Capital would have</p> <p>6 access to the marketing materials and LP</p> <p>7 agreements?</p> <p>8 A. I mean, Mimi does, but we all do have</p> <p>9 access to it.</p> <p>10 MR. ISAJIW: Okay. I don't think</p> <p>11 we've seen either of the marketing materials or</p> <p>12 LP agreements. [REQUEST] So, Phil, if we can</p> <p>13 talk about that later, but we would like to</p> <p>14 request those.</p> <p>15 MR KIM: Yeah, we'll take the request</p> <p>16 under advisement and then if we can talk about</p> <p>17 it, you know, post-depo.</p> <p>18 (INAUDIBLE COMMENT MADE BY WITNESS.)</p> <p>19 Q. And the decision make strategy for</p> <p>20 683 investment -- 683 Capital's investment, in</p> <p>21 terms of risk tolerance or the types of</p> <p>22 investments you're looking at, is that documented</p> <p>23 anywhere?</p> <p>24 A. We have very vague and wide</p> <p>25 flexibility. Our investors know that we move</p>
<p style="text-align: right;">Page 71</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Q. And can you describe for me,</p> <p>3 generally speaking, what those would be?</p> <p>4 A. Like, for example, we owned some</p> <p>5 metallurgical coal miners and we short some met</p> <p>6 coal against it, contracts.</p> <p>7 Q. And what about arbitrage strategies?</p> <p>8 A. Sometimes.</p> <p>9 Q. In connection with your investment</p> <p>10 for FXCM, what strategy would you say best</p> <p>11 describes that investment?</p> <p>12 A. Long, owning the bonds.</p> <p>13 Q. Is any of this, 683 Capital's</p> <p>14 investment strategies, documented anywhere?</p> <p>15 A. I mean, we have LP agreements and,</p> <p>16 you know -- I think, you've got out</p> <p>17 organizational chart. I assume we gave you our</p> <p>18 marketing materials.</p> <p>19 Q. Yeah, I don't -- I, actually, don't</p> <p>20 think that we've seen any of those "marketing</p> <p>21 materials" and I'm just trying to get a sense --</p> <p>22 A. Yeah, I mean, we're -- we have a wide</p> <p>23 range and our clients know we have a wide range</p> <p>24 of things we can do.</p> <p>25 Q. Okay. And that "range of things" is</p>	<p style="text-align: right;">Page 73</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 around a lot.</p> <p>3 Q. In connection with the FXCM</p> <p>4 investments, can you walk me through the</p> <p>5 decision-making process between you and</p> <p>6 Mr. Zweiman in connection with the deciding to</p> <p>7 invest initially in a company?</p> <p>8 A. So, as I believe we described</p> <p>9 earlier, like we saw the Swiss franc crash. We</p> <p>10 both saw news stories about it. We read it. We</p> <p>11 talked about what it meant. We looked into the</p> <p>12 filings. We looked into the documents and the</p> <p>13 indentures and together we concluded that it</p> <p>14 seemed like this was a good risk reward to own</p> <p>15 the bonds.</p> <p>16 Q. So when -- would you view this as</p> <p>17 investing in a distressed company at the time you</p> <p>18 made the investment?</p> <p>19 A. Yes.</p> <p>20 Q. And is that something that 683,</p> <p>21 typically, does?</p> <p>22 A. Often does.</p> <p>23 Q. Do you have a rough sense of</p> <p>24 percentage of investments that are in distress</p> <p>25 companies at 683 right now?</p>

<p style="text-align: right;">Page 74</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 A. Ten percent, roughly.</p> <p>3 Q. And is the -- was the SNB Flash Crash</p> <p>4 an example of one of the "dislocations" you were</p> <p>5 discussing earlier?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And can you just explain to me</p> <p>8 just so I better understand what you mean when</p> <p>9 you say "dislocations"?</p> <p>10 A. So a moment when investors in some</p> <p>11 asset sort of wake up or because FX decided it</p> <p>12 isn't actually what they were invested in and so</p> <p>13 they're selling for emotional or panic reasons as</p> <p>14 opposed to analytical reasons.</p> <p>15 People who are used to investing in</p> <p>16 something, a bond at par, you know, don't like</p> <p>17 when it trades at 50 or, I mean, nobody does.</p> <p>18 But it doesn't fit their business model often.</p> <p>19 Q. So you're looking to capitalize on</p> <p>20 those situations?</p> <p>21 A. Yes.</p> <p>22 Q. And how do you monitor individual</p> <p>23 investments for performance once you've invested?</p> <p>24 A. I mean, lots of different ways. We</p> <p>25 follow the public filings. We -- as we discussed</p>	<p style="text-align: right;">Page 76</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Q. And is any portion of 683 Capital</p> <p>3 portfolio passively managed?</p> <p>4 A. No, not by the definition of</p> <p>5 "passive," no.</p> <p>6 Q. So we referred to the "SNB Flash</p> <p>7 Crash" a couple of times.</p> <p>8 What is your understanding of that</p> <p>9 event?</p> <p>10 A. Yeah, up until then the -- up until</p> <p>11 that day, everybody thought that the Swiss franc</p> <p>12 would be pegged to a certain level of the Euro.</p> <p>13 And I said, you know, nah, and then</p> <p>14 let it re-peg at a different price. And it</p> <p>15 seemed that way --</p> <p>16 Q. Okay. And what was -- what was the</p> <p>17 effect on --</p> <p>18 A. -- 40 percent movement today.</p> <p>19 What?</p> <p>20 Q. I'm sorry, I think you were just</p> <p>21 answering.</p> <p>22 A. Yeah, I think there was a 40 percent</p> <p>23 move today in that moment. I mean, it happened</p> <p>24 over night.</p> <p>25 Q. What was your -- and what was your</p>
<p style="text-align: right;">Page 75</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 before, sometimes we talk to management.</p> <p>3 Sometimes we talk to research analysts who watch</p> <p>4 the stock prices or the bond prices, I mean.</p> <p>5 Q. You said you talk to research</p> <p>6 analysts and not just look at their research but</p> <p>7 you actually can pick up the phone --</p> <p>8 A. Sometimes both, I mean -- yes, both.</p> <p>9 Q. Does 683 Capital use investment</p> <p>10 managers at all?</p> <p>11 A. No. You mean outside managers to</p> <p>12 manage --</p> <p>13 Q. Yes.</p> <p>14 A. Puts the capital with other people,</p> <p>15 no.</p> <p>16 Q. Yes.</p> <p>17 A. No. I mean, one could argue say</p> <p>18 anytime you invest in say Coke-a-Cola, the</p> <p>19 management team of Coke-a-Cola is your investment</p> <p>20 manager for that business but...</p> <p>21 Q. I guess that is theoretically an</p> <p>22 argument one can make. But I was referring to</p> <p>23 contractually putting capital with investment</p> <p>24 managers outside of the firm.</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 77</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 understanding of that event's effect on FXCM?</p> <p>3 A. So my recollection was and based on</p> <p>4 what they said was, you know, they had clients</p> <p>5 that were say short the Swiss franc on a very</p> <p>6 levered basis. The Swiss franc moved, you know,</p> <p>7 in an unprecedented fashion. It moved through</p> <p>8 all their clients' equity, well-passed whatever</p> <p>9 their clients could pay back and they were --</p> <p>10 they had counterparties and they suffered a loss</p> <p>11 as a result because it became their loss, once it</p> <p>12 moved enough through their client's equity.</p> <p>13 Q. And so why would that make -- why</p> <p>14 would you be interested in investing in FXCM at</p> <p>15 that time?</p> <p>16 A. Because at that moment then -- they</p> <p>17 announced how much their losses were or they said</p> <p>18 their losses were. You could look at their</p> <p>19 balance sheet based on the public filings. You</p> <p>20 could see that they were getting, you know, a</p> <p>21 rescue financing from Leucadia. So they weren't</p> <p>22 going to have to, like, liquidate immediately.</p> <p>23 And there was information based on</p> <p>24 the money that was coming in and statements</p> <p>25 around that that you could value their assets</p>

<p style="text-align: right;">Page 78</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 based on what they said and for what their</p> <p>3 business had been worth based, again, on what</p> <p>4 they said and it looked like you were well</p> <p>5 covered, that the bottoms were easily going to</p> <p>6 recover a hundred cents on the dollar and they</p> <p>7 were trading in the 40s, I believe.</p> <p>8 Q. Okay. So what FXCM securities did</p> <p>9 683 Capital purchase at that point?</p> <p>10 A. The convertible bonds, convertible</p> <p>11 notes.</p> <p>12 Q. The Rule 144A notes?</p> <p>13 A. I thought they were registered.</p> <p>14 That's my recollection. Am I incorrect?</p> <p>15 I think the 144A, when they were</p> <p>16 issued and then became -- I may be wrong about</p> <p>17 this. So it's a long time since -- a long time</p> <p>18 since we did this.</p> <p>19 But I thought they were issued maybe</p> <p>20 144A and then had become registered, because they</p> <p>21 were convertible. So they had stock underlying</p> <p>22 them. So the typical pattern on a convertible</p> <p>23 bond is -- like that it is gets issued as a 144A</p> <p>24 and then it's quickly -- registered in the next</p> <p>25 six months or it becomes registered just by the</p>	<p style="text-align: right;">Page 80</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 a Page No. 1 of 10 and it also --</p> <p>3 A. Yeah.</p> <p>4 Q. -- says that this was filed April 10,</p> <p>5 2017.</p> <p>6 A. Yeah.</p> <p>7 Q. If you flip to page -- I want to</p> <p>8 point you to Exhibit 2 of this document --</p> <p>9 A. Uh-huh. Yep.</p> <p>10 Q. -- which could be your certification.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. So we mentioned -- I was</p> <p>13 asking before about other types of securities in</p> <p>14 FXCM that you purchased?</p> <p>15 And before we dive into this</p> <p>16 document, other than the bonds, did 683 Capital</p> <p>17 trade in any other FXCM securities, as far as you</p> <p>18 know?</p> <p>19 A. We traded in the stocks and, I think,</p> <p>20 we might have traded some options. I can't</p> <p>21 remember I have a hazy recollection that we did,</p> <p>22 but I don't remember exactly.</p> <p>23 Q. So, if you look at the document that</p> <p>24 we just marked as Exhibit 8, Paragraph 4 of your</p> <p>25 certification indicates that, "The following is a</p>
<p style="text-align: right;">Page 79</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 waiting period, so -- and they were over</p> <p>3 six-months old those bonds so...</p> <p>4 Maybe I'm wrong. I just -- that's my</p> <p>5 recollection.</p> <p>6 Q. Okay. Any other securities?</p> <p>7 A. That we bought in the company, no.</p> <p>8 MR. ISAJIW: Okay. I'm going to</p> <p>9 introduce -- I think, we're at Exhibit 8 -- the</p> <p>10 Memorandum of Law in support of 683 Capital</p> <p>11 Partners and Shipco's motions to consolidate the</p> <p>12 related actions and appoint Co-Lead Plaintiffs.</p> <p>13 Ashley, can you help me with that?</p> <p>14 (Deposition Exhibit 8, Memorandum of</p> <p>15 Law in Support of Motion of 683 Capital Partners,</p> <p>16 LP and Shipco Transport Inc. To: (1) Consolidate</p> <p>17 Related Actions; (2) Appoint Co-Lead Plaintiffs;</p> <p>18 and (3) Approve Co-Lead Plaintiffs' Selection of</p> <p>19 Counsel, was marked for identification.)</p> <p>20 MS. DePALMA: It should now be</p> <p>21 introduced.</p> <p>22 A. This is -- I'm downloading it now.</p> <p>23 Hold on.</p> <p>24 Okay. This is Exhibit 8, yeah, okay.</p> <p>25 Q. And so you'll see at the top, there's</p>	<p style="text-align: right;">Page 81</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 list of purchases and sales I have made in FXCM</p> <p>3 notes during the class period as set forth in the</p> <p>4 complaint. I have made no transactions during</p> <p>5 the class period in the debt or equities</p> <p>6 securities that are subject of this lawsuit</p> <p>7 except for those set forth below."</p> <p>8 And then attached it says, "See</p> <p>9 attached." And attached on the next page is</p> <p>10 "Schedule A of 683 Capital Partners Transactions</p> <p>11 in Global Brokerage Inc., 2.25 percent," dated</p> <p>12 6/15/18 CVT.</p> <p>13 Do you see that?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Did you prepare this document?</p> <p>16 A. No.</p> <p>17 Q. Who prepared it?</p> <p>18 A. I believe our attorneys.</p> <p>19 Q. Did you review the document before it</p> <p>20 was submitted?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And did you do anything to</p> <p>23 verify that the information there is correct?</p> <p>24 A. I just looked at my memory, which</p> <p>25 turned out to be incorrect because there's some</p>

<p style="text-align: right;">Page 126</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 options purchases in connection with FXCM</p> <p>3 securities?</p> <p>4 A. Again, I haven't -- I haven't looked</p> <p>5 at the sum total of trades. I just looked at a</p> <p>6 few of those trades. But my recollection is</p> <p>7 mostly to, you know, bet on them going up.</p> <p>8 We were -- it was a very small market</p> <p>9 cap at that point. There was a lot of thinking</p> <p>10 that, you know, their customers could get excited</p> <p>11 again. There is a lot of reasons why the stock</p> <p>12 could go up a lot.</p> <p>13 Q. I guess what I'm trying to under --</p> <p>14 A. This was a good business.</p> <p>15 Q. I'm trying --</p> <p>16 A. This was a good business. It paid</p> <p>17 like \$140 million in 2013 or 2014, like, you</p> <p>18 know, based on the filings, we believed it to be</p> <p>19 a good business, I should say.</p> <p>20 And given that, like, the idea that</p> <p>21 it could -- you know, it was trading at a tiny</p> <p>22 market cap seemed like, you know, a good</p> <p>23 risk/reward. And if you buy options, you can get</p> <p>24 a really levered upside return if it went back to</p> <p>25 what it used to be worth.</p>	<p style="text-align: right;">Page 128</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 getting a production of these trades that would</p> <p>3 include the options, if possible. So, again,</p> <p>4 just wanted to make a request and we can talk</p> <p>5 about it after the deposition.</p> <p>6 MR KIM: Yeah, we can talk about it</p> <p>7 afterwards. I mean, I think, those transactions</p> <p>8 are reflected in the account statement. So I</p> <p>9 don't know why you would need another piece of</p> <p>10 paper, but we can discuss it later.</p> <p>11 A. I'm back. Thank you. I just need</p> <p>12 to...</p> <p>13 Q. Understood.</p> <p>14 So, I guess, what I'm trying to</p> <p>15 understand is in the overall trading strategy of</p> <p>16 683 Capital in connection with the FXCM</p> <p>17 Securities, 683 is purchasing notes. It is</p> <p>18 shorting securities -- I'm sorry. It is shorting</p> <p>19 common stock. It is --</p> <p>20 A. Sometimes.</p> <p>21 Q. -- purchasing -- "sometimes." It is</p> <p>22 buying call options and other options.</p> <p>23 First of all, any other transactions</p> <p>24 related to FXCM securities that were missing?</p> <p>25 A. Not that were -- not that I recall.</p>
<p style="text-align: right;">Page 127</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 Q. To me it would be helpful if you</p> <p>3 could just explain to me when you buy an option,</p> <p>4 what type of financial contract are you making?</p> <p>5 A. When you buy a call option, you're</p> <p>6 betting -- you say paying a small amount now for</p> <p>7 the right to buy the stock at some price at</p> <p>8 anytime between now and the expiry and that stock</p> <p>9 price is the strike price.</p> <p>10 Q. Yeah, a predetermined strike price?</p> <p>11 A. Yes, a predetermined strike price.</p> <p>12 Q. So, in that situation, you have the</p> <p>13 right but not the obligation to purchase the</p> <p>14 security, if the price does hit the strike price?</p> <p>15 A. Correct.</p> <p>16 Can I --</p> <p>17 Q. So how does -- I'm sorry?</p> <p>18 A. -- have 30 seconds to approve our</p> <p>19 firm's, you know, payments today just to go -- I</p> <p>20 just got a text.</p> <p>21 Q. Sure.</p> <p>22 A. Is that okay? I'll be really quick.</p> <p>23 MR. ISAJIW: [REQUEST] And, Phil,</p> <p>24 while he's doing that, I don't think we've seen</p> <p>25 any of the confirms and we would be interested in</p>	<p style="text-align: right;">Page 129</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 I mean, I think you've got them all in the</p> <p>3 statements but...</p> <p>4 Q. Okay. So how do all those different</p> <p>5 types of securities transactions fit into an</p> <p>6 overall strategy? That's what I'm trying to</p> <p>7 understand.</p> <p>8 A. Sure. We thought that the bonds were</p> <p>9 really really cheap and we wanted to own as much</p> <p>10 of them as we can risk tolerate. And at various</p> <p>11 points we changed our mind as to whether or not</p> <p>12 the stock was cheap relative to the bonds, cheap</p> <p>13 on its own or expensive.</p> <p>14 Q. Okay. So you thought the bonds were</p> <p>15 worth more than their current market price, the</p> <p>16 stock --</p> <p>17 A. By a lot.</p> <p>18 Q. By a lot?</p> <p>19 A. Based on the filings that had been,</p> <p>20 you know, that we read.</p> <p>21 Q. Okay. You thought that the stock at</p> <p>22 some points was worth less than its current</p> <p>23 market price and at other points potentially</p> <p>24 worth more than its current market price?</p> <p>25 A. And at other points we thought, well,</p>

<p style="text-align: right;">Page 138</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 frankly. And, you know, to the extent we've got</p> <p>3 bandwidth, we'll read everything, if we can.</p> <p>4 Q. And specifically -- and that's</p> <p>5 generally.</p> <p>6 But, specifically, in connection with</p> <p>7 FXCM, do you recall any specific analyst that you</p> <p>8 either consulted with or read the reports of?</p> <p>9 A. I have this vague memory that -- and</p> <p>10 I keep thinking it was Citigroup -- that there</p> <p>11 was somebody who covered the company sort of all</p> <p>12 the way through for a long period into this but</p> <p>13 really beforehand when it was -- before it was a</p> <p>14 distressed situation who didn't truly understand</p> <p>15 the nature of the financing that Leucadia had</p> <p>16 done. And I feel like it was a Citigroup thing</p> <p>17 and we read their reports and maybe chatted with</p> <p>18 them once at some point, not at the beginning but</p> <p>19 later on. But I just -- you know, I could be</p> <p>20 wrong. I just have to go back and look.</p> <p>21 Q. And were any of the -- do you recall</p> <p>22 any analyst coverage on the notes, specifically,</p> <p>23 as opposed to the common stock?</p> <p>24 A. I don't. But, I mean, you should be</p> <p>25 recovering them all. I just don't remember,</p>	<p style="text-align: right;">Page 140</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 A. I don't know what that is.</p> <p>3 Q. How many other FX trading entities is</p> <p>4 683 Capital invested in?</p> <p>5 A. None. Well, sorry. We're invested</p> <p>6 in banks like Wells Fargo and JP Morgan right now</p> <p>7 and we've been invested in Citigroup and Bank of</p> <p>8 America and they have FX trading desks.</p> <p>9 Q. Okay.</p> <p>10 A. So, you know, I was thinking,</p> <p>11 specifically, an FX-only company, but lots of</p> <p>12 institutions we've been invested in trade FX.</p> <p>13 Q. How familiar are you with the FX</p> <p>14 trading model as a business?</p> <p>15 A. I'm familiar with FXCM's description</p> <p>16 of what their business was.</p> <p>17 Q. Do you have any other investments</p> <p>18 whose primary revenue is driven by FX trading?</p> <p>19 A. No. We looked at other ones that did</p> <p>20 like Gain Capital, I believe, also had a lot of</p> <p>21 that too. And so we looked at that all during</p> <p>22 the course of our investment.</p> <p>23 Q. What is your understanding of paper</p> <p>24 flow arrangement in connection with FX trading?</p> <p>25 A. So, in general, I understand pay for</p>
<p style="text-align: right;">Page 139</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 specifically, FXCM.</p> <p>3 Q. And you said that you have a vague</p> <p>4 memory of dealing with an analyst who didn't</p> <p>5 fully understand the Leucadia transaction.</p> <p>6 How did you, ultimately, get</p> <p>7 comfortable with your understanding of the</p> <p>8 Leucadia transaction?</p> <p>9 A. By reading the public filings from</p> <p>10 FXCM and Leucadia.</p> <p>11 Q. And do you feel as though you did</p> <p>12 understand the Leucadia transaction?</p> <p>13 A. Yeah, I did. Now, you're asking me</p> <p>14 now about the details of a complicated M&A</p> <p>15 transaction three years later or five years</p> <p>16 later -- no -- five years later, yeah. It's</p> <p>17 going to be hard for me to remember it.</p> <p>18 Q. No, I'm just asking at the time you</p> <p>19 made your investment decisions in FXCM</p> <p>20 securities, whether you felt comfortable that you</p> <p>21 understood the transaction -- the Leucadia</p> <p>22 transaction?</p> <p>23 A. Yeah, we felt comfortable.</p> <p>24 Q. What is your understanding of a "no</p> <p>25 dealing desk"?</p>	<p style="text-align: right;">Page 141</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 flow in the context of equity, as I assume it's</p> <p>3 similar in the context of -- what I understand</p> <p>4 that term to be, right, is you say, okay -- and</p> <p>5 we hate it when we're on the other side of it in</p> <p>6 terms of equity, which is where we mostly trade.</p> <p>7 We would stay away from it.</p> <p>8 Like, my understanding is Citadel</p> <p>9 does that with e-trade, which they, basically,</p> <p>10 control. And the idea being is that, you know,</p> <p>11 I'll, basically, like, give you money as a broker</p> <p>12 to some other introducing broker or customer</p> <p>13 facing broker for all your orders, which is</p> <p>14 information that I can effectively trade against</p> <p>15 or front run, effectively, and use as advantage</p> <p>16 to position myself.</p> <p>17 Q. So your understanding of --</p> <p>18 A. So I would -- in FX, when I hear that</p> <p>19 phrase, I would assume what it means is you say,</p> <p>20 okay, I -- know, if you were going to say go to</p> <p>21 Citigroup or Deutsche Bank, who are big FX</p> <p>22 traders -- let's say, we created, you know -- if</p> <p>23 it was me, Joseph Patt, FX broker, I'd go to</p> <p>24 Citigroup and say, you know what, I'll pay you a</p> <p>25 hundred grand a year to get all your orders,</p>

<p style="text-align: right;">Page 142</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 right, and I'll trade them for you and you just</p> <p>3 pass on my execution and somehow I can use that</p> <p>4 value, especially, in a much less regulated</p> <p>5 market like FX trading. I can use that flow to</p> <p>6 get long the franc ahead of somebody else or get</p> <p>7 short the yen ahead of somebody else, which is,</p> <p>8 you know, not something you want to hear your</p> <p>9 brokers doing while you're trading an asset.</p> <p>10 Q. So you're general understanding of</p> <p>11 paper flow arrangements have to do with front</p> <p>12 running situations for the brokers who have the</p> <p>13 arrangements?</p> <p>14 A. For the guy who is paying for the</p> <p>15 flow, yes.</p> <p>16 Q. What is your understanding of paper</p> <p>17 flow as it is relevant to your complaint against</p> <p>18 FXCM?</p> <p>19 A. Yeah, my understanding is they were</p> <p>20 effectively through, you know, a semi-controlled</p> <p>21 or sister or friendly entity trading against our</p> <p>22 customers.</p> <p>23 Q. And what do you mean by trading</p> <p>24 against their customers?</p> <p>25 A. Taking positions, you know, when</p>	<p style="text-align: right;">Page 144</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 efficiently as possible.</p> <p>3 And that's clearly -- it seems not</p> <p>4 to be what they were doing based on what they</p> <p>5 admitted to the regulator and were banned from</p> <p>6 doing in this country.</p> <p>7 Q. And what is your understanding of</p> <p>8 what they "admitted to the regulator"?</p> <p>9 A. That they were using their</p> <p>10 information from their customers to make money,</p> <p>11 selling that information to an undisclosed</p> <p>12 sisterly-related party friendly organization of</p> <p>13 former employees and who knows what other</p> <p>14 kickbacks and side money was involved.</p> <p>15 Q. Okay. Are you familiar with a</p> <p>16 company called Effex, E-F-F-E-X?</p> <p>17 A. I believe that is the name of that</p> <p>18 company that was mentioned in the regulatory</p> <p>19 filings.</p> <p>20 Q. Okay. And what is your understanding</p> <p>21 of the FXCM's relationship with Effex?</p> <p>22 A. So, based on my recollection or based</p> <p>23 on the press release in the announcement, it was</p> <p>24 former employees and there were some payments</p> <p>25 back and forth and Effex was taking the orders</p>
<p style="text-align: right;">Page 143</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 they're either -- not necessarily in-house but</p> <p>3 sisterly to house -- that their customer --</p> <p>4 against their customer's flow. They were making</p> <p>5 money based on which way their customers were</p> <p>6 going.</p> <p>7 Q. Is that --</p> <p>8 A. Or thinking they were.</p> <p>9 Q. So, when you say trading against the</p> <p>10 customers, as alleged in the complaint here, you</p> <p>11 mean, something other than hedging a position?</p> <p>12 A. Yes, they were an agency. In other</p> <p>13 words, their interests weren't aligned with their</p> <p>14 customers. They were using the information that</p> <p>15 their customers were giving them to monetize it</p> <p>16 somehow or so they believed in contravention of</p> <p>17 what they were representing to their customers.</p> <p>18 Q. And what were they "representing" --</p> <p>19 what they were "representing" to their customers?</p> <p>20 A. That they were efficient agency</p> <p>21 traders of FX giving you access to a market you</p> <p>22 couldn't get as a retail investor and giving you</p> <p>23 leverage you couldn't get as a retail investor or</p> <p>24 even an institutional investor. They were on</p> <p>25 your side helping you make big bets in FX as</p>	<p style="text-align: right;">Page 145</p> <p>1 JOSEPH PATT - CONFIDENTIAL</p> <p>2 and, effectively, filling them as -- but I'm not</p> <p>3 sure how much I can trust because that's what</p> <p>4 they were admitting and, obviously, in</p> <p>5 contravention with the -- that's what they -- the</p> <p>6 level which they -- I don't know if they got away</p> <p>7 with worse or there was extra. It could be a lot</p> <p>8 worse. If I had the power of subpoena and the</p> <p>9 government, I'd probably find out worse. Because</p> <p>10 once you find somebody behaving like that, you</p> <p>11 know, in contravention to their entire stated</p> <p>12 business model and marketing, who knows what they</p> <p>13 were really doing.</p> <p>14 Q. And do you have any evidence of any</p> <p>15 other alleged misconduct similar to the nature</p> <p>16 you just alluded to?</p> <p>17 A. No, I just -- what's the phrase?</p> <p>18 When there's smoke, there's fire. When there's</p> <p>19 fire, there's a bond fire so...</p> <p>20 Q. Okay. And is it your understanding</p> <p>21 that FXCM had a paper flow relationship with</p> <p>22 Effex?</p> <p>23 A. That was my understanding based on,</p> <p>24 you know, what was in the public document.</p> <p>25 Q. And were you aware that FXCM</p>